

# COPY

VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF RICHMOND

JOHN MARSHALL COURTS BUILDING

-----x  
PHILIP MORRIS COMPANIES, INC., et al.,

Plaintiffs,  
-against-

At Law No.  
760CL94X  
00816-00

AMERICAN BROADCASTING COMPANIES,  
INC., et al.,

Defendants.  
-----x

May 24, 1995  
9:50 a.m.

Videotaped deposition of BRENDAN McCORMICK,  
taken by Defendants, at the offices of Proskauer  
Rose Goetz & Mendelsohn, Esqs., 1585 Broadway, New  
York, New York before Eric J. Finz, a Shorthand  
Reporter and Notary Public within and for the State  
of New York

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**MANHATTAN**  
REPORTING CORP

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## A P P E A R A N C E S:

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BY: DENISE ESPOSITO, ESQ.,  
-and-  
JOSEPH E. KILLORY, ESQ.,  
of Counsel.

## ALSO PRESENT:

RUSSELL M. FINZ, C.L.V.S.,  
Action Legal Video, Inc.

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## ERRATA SHEET

Corrections or changes to the deposition testimony of:

Brendan McCormick - Volume 1

[illegible]

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Best mine

**Brendan McCormick**

1  
2 THE VIDEO OPERATOR: This is the video  
3 operator speaking, Russell Finz, of Action Legal  
4 Video, 132 Nassau Street, New York, New York.

5 We are here on this day, May 24, 1995,  
6 at the time continuously recorded on the videotape,  
7 at the offices of Proskauer Rose Goetz &  
8 Mendelsohn, 1585 Broadway, New York, New York, to  
9 take the videotape deposition of Brendan McCormick,  
10 on behalf of the defendants, in the matter of  
11 Philip Morris Companies, Incorporated, et al.,  
12 versus American Broadcasting Companies,  
13 Incorporated, et al., in the Circuit Court, for the  
14 City of Richmond, Virginia, John Marshall Courts  
15 Building, At Law Number 760 CL94X 00816-00.

16 Will counsel please introduce  
17 themselves.

18 MS. ESPOSITO: Denise Esposito for the  
19 defendants.

20 MR. KILLORY: Joseph E. Killory for the  
21 defendants.

22 MR. BOOKER: Lewis T. Booker for the  
23 witness and for Philip Morris.

24 THE VIDEO OPERATOR: Will the reporter  
25 please swear the witness.

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1  
2 B R E N D A N M c C O R M I C K ,  
3 having been first duly sworn by the Notary Public  
4 (Eric J. Finz), was examined and testified as  
5 follows:

6 EXAMINATION BY MS. ESPOSITO:

7 Q. Good morning, Mr. McCormick.

8 A. Good morning.

9 Q. My name is Denise Esposito. As you  
10 know, I represent the defendants in this case.  
11 Have you been deposed before?

12 A. I have not.

13 Q. It's a pretty straight forward process,  
14 I will be asking you questions, provided that you  
15 understand my question, you should answer as  
16 completely as you can. If you don't understand one  
17 of my questions, please let me know, I will try to  
18 rephrase it in a way that makes more sense to you.  
19 Do you understand that?

20 A. Yes.

21 Q. Can you tell me what your current  
22 position is with Philip Morris?

23 A. It is coordinator of media affairs for  
24 Philip Morris U.S.A.

25 Q. Have you ever given testimony at trial

McCormick

before?

A. I have not.

Q. Did you prepare for today's deposition in any way?

A. I met with counsel.

Q. Did you review any documents in your preparation?

A. With counsel.

Q. Did you review any documents without your counsel?

A. No.

Q. Do you know if you reviewed any documents that were produced by the defendants in the case?

A. I do not think so.

Q. Have you signed a confidentiality agreement with Philip Morris?

A. Yes, I have.

Q. Has your counsel instructed you that your confidentiality agreement should not constrain your testimony here in any way?

A. Yes.

Q. Can you go through your educational background briefly, starting with college?

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A. I graduated from Hamilton College, in upstate New York, in 1993. My degree is in public policy.

Q. When did you first begin working for Philip Morris?

A. I started working as a summer intern in the summer of 1989.

Q. And after your first year of college?

A. It was actually before my first year of college.

Q. Was that with Philip Morris U.S.A.?

A. Yes.

Q. In New York?

A. Yes.

Q. What department were you in that summer?

A. It was in the public affairs department.

Q. Is that part of the corporate affairs department?

A. Yes.

Q. Did you have any other employment during that summer?

A. No.

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McCormick

Q. Of 1989.

Starting with the summer of 1989 when you were a summer intern, can you go through all of your different positions with Philip Morris to the present position?

A. Summers 1989 through until 199 -- pre-1993 I was working in the public affairs department solely as a summer intern. Beginning after graduation in July of 1993, I joined the public affairs department, also as an intern, but as a full-time intern. In November of 1993 I moved into the media relations department. Beginning in September of 1993 I was moved from intern media affairs to coordinator of media affairs.

MR. BOOKER: 1993 or 1994?

THE WITNESS: I'm sorry, 1994.

Q. September of 1994 you --

A. Was moved to coordinator.

Q. What were your responsibilities during the summers as a summer intern?

A. I would provide research support for the issues managers for the public affairs department.

Q. Anything else?

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McCormick

A. That was it.

Q. Were your responsibilities the same each summer?

A. It would be working on different projects, but yes, for the most part they were the same.

Q. That was 1989 through 1993?

A. Summer of 1992 would have been the last summer. But then yes, in 1993 it wasn't considered a summer intern, but the responsibilities were pretty much the same.

Q. In November of 1993 your position changed?

A. Yes.

Q. Did your responsibilities change as well?

A. Yes, I was moved to a different department, the media relations department.

Q. What was your position there?

A. It was intern media affairs.

Q. And your responsibilities as intern media affairs?

A. There were some research responsibilities, as well as talking to reporters,

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McCormick

getting information about their stories and providing information to them prior to their interviews with our spokespeople.

Q. Other responsibilities?

A. That was essentially it.

Q. That was from November 1993 to September 1994?

A. Yes.

Q. So the period, and I'm going to be talking today mostly about the period January to March 1994. And am I correct that during that entire period you were an intern in the media relations department?

A. Yes.

Q. You said one of your responsibilities was talking to reporters. And you mentioned that you would obtain information from the reporters. Did you have standard questions that you asked of reporters to obtain information about the stories they were doing?

A. There was no set list of questions, but what I would do is ask the reporter information about the story they were working on, and what particular information they were requesting from

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McCormick

Philip Morris so that I could direct that call to the appropriate spokesperson within that department.

Q. How did the call get directed to you? In other words, how did you become the person to talk to the reporter?

A. The call would initially come in, it would often be handled by our secretarial staff, they would type up a note via electronic mail and circulate that note to the department. And the primary responsibility was either mine or Tara Cararro in the department to return that call. And we would usually, depending who was around, if she was out of the office I would return the call, and vice versa. If we were both there we would briefly discuss and divide the responsibilities of the calls that came in that day.

Q. There was no assignment process whereby one of you would be assigned to return a call?

A. No.

Q. Was this procedure that you are describing a procedure during the whole period, January to March 1994?

A. Yes.

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Q. Other than your public relations and media relations work for Philip Morris, have you ever done any other kind of media relations work for any company?

A. No.

Q. As of January 1994, who was your immediate supervisor at Philip Morris?

A. Karen Daragan.

Q. Is she still your immediate supervisor?

A. Not immediate, but yes, she is still one of my supervisors.

Q. Is there someone in between you and Karen Daragan?

A. Mary Coughlin.

Q. Can you spell her last name?

A. C-o-u-g-h-l-i-n.

Q. What's her position?

A. She is the manager of media affairs at Philip Morris.

Q. How long has she been in that position?

A. Since December of '94.

Q. And is she your immediate supervisor?

A. Yes.

Q. Does she report to Ms. Daragan?

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McCormick

A. Yes, she does.

Q. Did your immediate supervisor change between early 1994 when it was Ms. Daragan and now when it's Mary Coughlin? Was there somebody else in between?

A. No.

Q. What is your current role with respect to responding to media inquiries?

A. It's pretty much the same. Although the responsibilities are shared. Tara Carraro and myself still return a lot of the calls, talk to reporters. We also have academic interns who have worked throughout their previous semester, and they have returned some of those calls.

Q. How many academic interns work in your department?

A. There are two currently.

Q. You said your responsibilities include providing information to reporters. What types of information are you authorized to provide to reporters?

A. Any type of background information, I can fax information if we have a statement. If we have studies or other information they are

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McCormick

requesting. If they were requesting copies of ads, anything along those lines.

Q. So prepared statements and prepared information. Are you authorized to provide any information that is not prepared? In other words, if they ask a question, are you authorized to go determine the answer and provide that to them?

A. Not as a spokesperson, no, I'm not.

Q. Who are the authorized spokespeople in your office?

A. In my department, Karen Daragan, currently Mary Coughlin, and David Lauffer.

Q. Anyone else?

A. No, that's it.

Q. When you say your department, you mean the media affairs department?

A. The media affairs department.

Q. When you started with Philip Morris in the summer of 1989, did you have any training that Philip Morris provided?

A. It was all on the job.

Q. No orientation? In other words, a seminar, an orientation type class?

A. No.

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McCormick

Q. Did you have any orientation when you started as a full-time employee with Philip Morris?

A. No.

Q. Have you ever taken any seminars or classes in connection with your employment at Philip Morris?

A. No, I have not.

Q. Have you ever received any written training materials in connection with your job as a media affairs coordinator?

A. What type of training materials?

Q. Training manuals, any type of training materials.

A. No.

Q. Have you watched any training videos?

A. The only training I've gone through is media training, which is kind of sample spokesperson training just to make you more familiar with interview questions and how to respond to them.

Q. When did you go through that training?

A. After I came on full-time in November. I have been twice.

Q. You have been twice?

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A. Yes.

Q. So November of 1993 --

A. No, it would have been in 1994. And the most recent one was in, I believe, January of '95.

Q. What is involved in that type of training?

A. Just doing mock interviews, usually with a couple of our colleagues and someone who role plays as the reporter.

Q. Is that training conducted by Philip Morris or by an outside firm?

A. It's conducted by one of our PR agencies.

Q. Do you know the name of that agency?

A. Burson Marsteller.

Q. Does Burson Marsteller provide you with any written materials in connection with that training?

A. I believe they have a manual that they provide.

Q. Do you have that manual in your files?

A. I'm not sure.

Q. When you began work for Philip Morris

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2 in 1989, how familiar were you with the tobacco  
3 industry?

4 A. Not very familiar.

5 Q. Did you have any knowledge --

6 A. Just about what I had read in the  
7 papers. My father had worked at Philip Morris, so  
8 I was generally familiar with what the company  
9 did. But in terms of specifics, I was not very  
10 familiar.

11 Q. Did you understand how cigarettes were  
12 made?

13 A. No, I did not.

14 Q. Have you ever toured any of Philip  
15 Morris' cigarette manufacturing facilities?

16 A. I toured the plant in Richmond in  
17 February of 1995.

18 Q. Have you toured any other facilities?

19 A. No, I have not.

20 Q. Have you attended any industry-wide  
21 conferences put on by, for example, the Tobacco  
22 Institute?

23 A. No.

24 Q. Any other industry-wide conferences?

25 A. No.

McCormick

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2 Q. During the period of January to March  
3 1994 when you were an intern, did you attend staff  
4 meetings that occurred in your department?

5 A. Yes, I did.

6 Q. Would you generally attend all staff  
7 meetings if you were in the office?

8 A. Yes. All staff meetings that I was  
9 invited to.

10 Q. That's my question. Were there staff  
11 meetings that were just part of the office that you  
12 would not have been invited to?

13 A. If we had a staff meeting, it was  
14 generally -- if we called it a staff meeting, it  
15 was generally the entire staff. There were plenty  
16 of meetings that I was not invited to among members  
17 of our staff.

18 Q. Do you regularly keep a notebook or  
19 take notes of meetings and conversations in your  
20 department?

21 A. No.

22 Q. Have you ever met your counterparts at  
23 the other tobacco companies?

24 A. I've met people from the Tobacco  
25 Institute, but no one from any of the other tobacco

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companies.

Q. Have you ever spoken to them on the phone?

A. I have.

Q. People from other tobacco companies?

A. Yes.

Q. Who would that be?

A. I have spoken with Maura Ellis and Peggy Carter at R.J. Reynolds.

Q. Have you spoken with anyone else at R.J. Reynolds?

A. No.

Q. Have you spoken with your counterparts at any other tobacco company?

A. I met one person from Lorillard once.

Q. Who was that?

A. Siminodes.

Q. Can you spell that?

A. No, I can't.

Q. Can you pronounce his last name again?

A. Siminodes.

Q. Does your department have any written guidelines for responding to media requests?

A. No.

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2 Q. Have you ever consulted with one of  
3 your outside public relations firms in connection  
4 with responding to reporters' requests?

5 A. Not to my knowledge.

6 Q. Are you familiar with the discovery  
7 request that the defendant served in this case?

8 A. I haven't seen it, no.

9 Q. Have you provided any information to  
10 anyone at Philip Morris in connection with  
11 responding to discovery requests, if you know?

12 A. Yes, I have pulled together my entire  
13 file related to the Day One program. And  
14 surrounding issues.

15 Q. Do you know if -- were you interviewed  
16 in connection with that document search or document  
17 pull?

18 A. I met with one of our lawyers in  
19 connection with it. I don't recall who.

20 Q. Did any of those lawyers actually  
21 search your files or did you do the file search?

22 A. They went through my files.

23 Q. Do you keep your own personal files?

24 A. Yes.

25 Q. Do you also maintain any files in your

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office that are not actually your personal files,  
that are accessible to the whole department?

A. All of my files are accessible to the  
department.

Q. Is that because of your role or are you  
saying that everyone's files are generally  
accessible?

A. It was because of my role as an  
intern. I would often compile media clips that  
needed to be accessed by other people in the  
department.

Q. We are talking about during the period  
January to March 1994?

A. Yes.

Q. Did a lawyer search any of those files,  
the files that are accessible to the whole  
department?

A. Yes, it's all -- they went through all  
the files in my office.

Q. Did you search any of your computer  
files in connection with those document requests?

A. Yes.

Q. What did you search?

A. I searched my electronic mail and any

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other -- just any other documents that were saved on my machine.

Q. When you say any other documents, you mean like word process document, Microsoft Word or something?

A. Correct.

Q. Do you have any databases on your computer system that you searched?

A. No.

Q. Do you maintain any databases?

A. No. We have databases of reporter's names, but nothing that would be relevant to that request.

Q. Did you search only your own E-mail files or did you search anybody else's E-mail files?

A. One of my responsibilities was compiling the E-mail notes, since I had not been copied on a lot of E-mail notes that were distributed, I asked Karen Daragan and Tara Carraro to forward their E-mail notes on these <sup>Topics</sup> to me. Once I had those, I printed up hard copies of those and submitted those to the attorneys.

Q. Did you ask anyone else to forward

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2 E-mails to you?

3 A. I don't believe so.

4 Q. How did you ask them, was it a written  
5 request?

6 A. No.

7 Q. Orally?

8 A. Orally.

9 Q. Do you remember exactly what you asked  
10 them to forward?

11 A. Not exactly, no.

12 Q. In general, was your request just  
13 everything relating to the Day One inquiries?

14 A. It was E-mail notes related to the Day  
15 One inquiries.

16 Q. Did you do anything else to search for  
17 documents either in computer form or hard copy?

18 A. No, nothing beyond what I just  
19 described.

20 Q. Did you provide any information in  
21 connection with the interrogatory responses that  
22 Philip Morris served?

23 A. No.

24 Q. Other than your files, and you  
25 testified that there are some news clippings and

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2 other documents that are accessible to the whole  
3 department, is there a central file system in your  
4 department?

5 A. No. Everyone keeps their own files.

6 Q. Do you know if Philip Morris has a  
7 document retention or destruction policy that  
8 applies to your department?

9 A. We have a document retention policy,  
10 yes.

11 Q. Are there forms that you need to fill  
12 out in connection with that policy?

13 A. I believe we need to read the policy  
14 and sign a form indicating that we have read the  
15 policy. I have also submitted documents to the  
16 lawyers who are collecting these on an ongoing  
17 basis, based on other pending litigation.

18 Q. Do you know if there was any kind of a  
19 suspension of a document destruction policy that  
20 related to documents involved in this litigation?  
21 In other words, is there a suspension form that  
22 you've seen?

23 A. I don't know.

24 Q. Were you ever asked to maintain all  
25 documents relating to this litigation?

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1 McCormick

2 A. Yes. They would have been retained as  
3 a matter of policy.

4 MS. ESPOSITO: Please mark that as  
5 McCormick Exhibit No. 1.

6 EXB (McCormick Exhibit 1 for  
7 identification, E-mail exchanges, production  
8 numbers PA 426904 through PA 426912-A.)

9 Q. The court reporter has marked as  
10 McCormick 1, a ten-page document that consists of  
11 E-mail exchanges. The Bates numbers are PA 426904  
12 through PA 426912-A.

13 Can you tell me if you recognize that  
14 document?

15 A. I do.

16 Q. Is that the document that you generated  
17 in connection with the document search that you  
18 were speaking of earlier?

19 A. Yes. One of the documents.

20 Q. Did you generate other E-mail-type  
21 documents in connection with that search?

22 A. No, this was essentially all the E-mail  
23 notes that were compiled.

24 Q. Do you know if -- did you print out all  
25 the E-mail notes in one document?

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A. Yes.

Q. And that was it?

A. This is it.

Q. That document seems to have been  
printed on March 18th. Is that correct?

A. Yes.

Q. Do you know if that was the day that  
you asked Ms. Daragan and Ms. Carraro to forward  
their E-mail notes to you?

A. I don't know. It may have been. I'm  
not sure.

Q. Who asked to you compile those E-mails?

A. I don't recall.

Q. Was it someone in your office or was it  
a lawyer?

A. I don't recall.

Q. Are you familiar with the Day One  
broadcasts that are at issue in the case?

A. Yes.

Q. Have you seen them?

A. I have seen the Day One broadcast.

Q. Did you play any role in communicating  
with ABC in connection with Day One's request prior  
to the broadcasts?

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McCormick

A. No. I believe I may have had one conversation with the producer, but that was only to let him know that Karen Daragan would be calling him back later that afternoon.

Q. Do you recall when that was?

A. As best I can guess, it was the 14th of February.

Q. When you say the producer, you are referring to Mr. Bogdanich?

A. Yes.

Q. Do you remember anything, any of the substance of that conversation other than what you just said?

A. No. I believe I just called him to let him know that Karen would be calling him back later that afternoon, which she did.

Q. Any other contacts with ABC during that time period?

A. No.

Q. Did you have any contacts with ABC after the broadcasts?

A. ABC Day One?

Q. ABC Day One.

A. No.

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1 McCormick

2 Q. Prior to February 14th when you had  
3 this conversation with Mr. Bogdanich, were you  
4 aware that Day One had contacted Philip Morris in  
5 connection with Day One's investigation?

6 A. I was aware only from an initial E-mail  
7 note which said that they had contacted our  
8 Richmond office.

9 Q. Prior to that E-mail note, did you know  
10 Day One was doing an investigation of nicotine?

11 A. No, I did not.

12 Q. Were you involved in any discussions as  
13 to how Philip Morris would respond to Day One's  
14 inquiries?

15 A. No, I was not.

16 Q. Have you spoken to Mr. Han or  
17 Ms. Daragan or Ms. Carraro about the testimony they  
18 gave in this case?

19 A. No, I have not.

20 Q. Have you read the transcripts or seen  
21 the videos of their deposition?

22 A. No, I have not.

23 Q. Did you have any discussions with them  
24 about their testimony?

25 A. No, I did not.

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McCormick

Q. Did you have any discussions with them about your deposition today?

A. No, I did not.

Q. If you would take a moment to look at the document that's been marked as McCormick 1, I believe it contains ten E-mails, and I would like you to familiarize yourself with the E-mails and tell me whether you are familiar with any other E-mails that relate to the Day One broadcast that are not in that document.

MR. BOOKER: Object to the statement only to the extent that it says ten E-mails. Some of these E-mails are duplicates.

Q. I think there are ten individual E-mails. But you can tell me.

A. I am not aware of any other ones beyond these.

Q. That relate to the Day One inquiries?

A. Correct.

Q. Are you aware of any E-mails that relate to the Day One broadcasts themselves, other than these?

A. No, I am not.

Q. If you could turn to page 5 of that

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document, I'm using the numbers in the upper right-hand corner, there is an E-mail dated February 4, 1994, from Shirley Arnott to others in your office.

Are you familiar with that E-mail?

A. I received this E-mail on February 4th.

Q. Was this your first notice that Day One was doing an investigation into nicotine?

A. Yes.

Q. Did you have discussions with anyone in your office about this first call from Day One?

A. No, I did not.

Q. Do you have any knowledge of Ms. Arnott's conversation with Mr. Bogdanich beyond what's in this E-mail?

A. No, I do not.

Q. I want to back up to what's page 2 of your document, but chronologically is the next E-mail in time. It's dated February 4th from Mr. Han to several people in your office, you are not copied on this E-mail. But I want to know if you are familiar with the E-mail.

A. I'm not, I was not copied on it.

Q. Had you seen this E-mail before March

McCormick

18th when it was forwarded to you?

A. No, I had not.

Q. Do you know why you were not copied on the E-mail?

A. No, I do not.

Q. There is a reference in this E-mail to Maura Payne, which I believe is the same person as Maura Ellis that you referred to earlier at R.J.R.

Did you have any discussions with Ms. Payne about the Day One investigation?

A. No, I did not.

Q. Have you ever had conversations with her about the Day One broadcasts?

A. No, I have not.

Q. Have you had any conversations with her about Day One or this lawsuit?

A. No.

Q. There is also reference to a Dave Fishel at R.J.R. Have you ever spoken to Dave Fishel?

A. No, I have not.

Q. Have you had discussions with Peggy Carter of R.J.R. about Day One?

A. No.

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McCormick

Q. Have you had discussions with anyone at any other tobacco companies about Day One?

A. No, I have not.

Q. What about anyone at the Tobacco Institute?

A. No.

Q. If you could turn to the E-mail that begins on page 3, it's a February 4, 1994 E-mail from Tara Carraro to several people in your office. Again, you are not copied on this E-mail.

Are you familiar with this E-mail?

A. No, I am not.

Q. Was the first time you saw this E-mail when you collected it on or about March 18th?

A. On the 18th.

Q. The E-mail describes a call between Ms. Carraro and Mr. Bogdanich. I want to know if you've ever discussed this call with Ms. Carraro.

A. No.

Q. Have you discussed this call with anyone in your office?

A. No.

Q. You have no additional knowledge of this call besides what's in this E-mail?

MANHATTAN REPORTING CORP.

2058459853



McCormick

A. No.

MS. ESPOSITO: Can you mark this as McCormick Exhibit 2, please.

EXB (McCormick Exhibit 2 for identification, copy of notebooks.)

Q. The court reporter has marked as *McCormick* Exhibit 2, a compilation of documents that I understand are maintained in a notebook in your department.

Can you take a moment to just review them generally and tell me if that appears to be a copy of the notebook that you maintain, or your office maintains.

A. Yes, it does.

Q. During the period January to March 1994, were you responsible for maintaining the notebook?

A. No, that was primarily done by our secretarial staff.

Q. Were you responsible for preparing the media affairs call reports and the media activity reports that are contained in the notebook?

A. That responsibility was shared among other people in the department. Tara Carraro and

McCormick

myself would primarily contribute to that.

Q. Was there anyone else who contributed to that?

A. No, not to my knowledge.

Q. Who's responsible for preparing those reports now? Is that still your responsibility?

A. No, it is done by our academic interns.

Q. The media affair call reports and the media call reports, I understand that Tara Carraro and you participated in drafting them. Did anybody else in your office participate in editing or revising them?

A. I believe Karen took a look at them occasionally.

Q. Anybody else?

A. Not to my knowledge.

Q. Just to speed things along, I'm going to give you a document, I'm not going to mark it as an exhibit. It is a subset that's included in that document that we just marked as Exhibit No. 2. The Bates numbers are PA 427083 to 85. And it's a media affairs call report, dated January 26, '94 through February 4, 1994.

Do you recognize that report?

MANHATTAN REPORTING CORP.

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McCormick

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A. Excuse me?

Q. Do you recognize the report?

A. As much as I can, yes. It looks like one of ours.

Q. Do you know if you drafted that report?

A. I don't believe I did.

Q. Do you know who did?

A. No, I do not.

Q. If you didn't draft it, would there be anyone other than Tara Carraro who drafted it?

A. No.

Q. On the third page of the report there is an entry for February 4th. If you could look at that. It says "ABC Day One News." And under what I believe is the "request" column, says "information on nicotine and other cigarette ingredients levels." Under the "action taken" column, it says "pending for more information."

Do you know if you participated in drafting that entry?

A. I did not.

Q. Do you recall learning around that time that ABC News had requested that information?

A. Only from this report or from the call

MANHATTAN REPORTING CORP.

2058459856

1 McCormick

2 that came in that I was copied on on the 4th.

3 Q. If you were not involved in drafting a  
4 report, did you typically read the report?

5 A. Sometimes I would, sometimes I  
6 wouldn't. I don't know if I read this particular  
7 report at the time.

8 Q. I would like you to look back at  
9 Exhibit No. 1, page 4 of that exhibit. There is an  
10 E-mail from Victor Han to others in your office.  
11 You are again not included. It's Monday February  
12 7th.

13 Do you have that one in front of you?

14 A. I do. Bottom of page 4?

15 Q. Right. Have you seen that E-mail  
16 before?

17 A. Not prior to the 18th.

18 Q. Mr. Han states in that E-mail, and I'm  
19 quoting now from the first line, "we are of the  
20 mind to provide comment over the phone and not put  
21 anyone on the show."

22 Were you involved in any discussions  
23 about whether Philip Morris would put anyone on the  
24 show?

25 A. No, I was not.

MANHATTAN REPORTING CORP.

2058459857

1 McCormick

2 Q. The date on this E-mail is February  
3 7th, and I understand Mr. Han held a staff meeting  
4 on that day.

5 MR. BOOKER: I object to your  
6 characterization of the prior testimony. Just ask  
7 a question if you are going to.

8 Q. I'm going to tell you that that Mr. Han  
9 testified --

10 MR. BOOKER: I object to any statement  
11 to this witness about the testimony of another  
12 witness. It's improper to ask a witness to comment  
13 on the testimony of another witness. And it is  
14 improper to show him the testimony of another  
15 witness. And if you do so, I'm going to instruct  
16 him not to answer the question. You may certainly  
17 ask him whether he attended a staff meeting on May  
18 the 7th.

19 MS. ESPOSITO: It's not May the 7th.  
20 It's February 7th.

21 MR. BOOKER: You may certainly ask him  
22 that.

23 Q. I'm going to show you what's been  
24 marked as Exhibit No. 3 to the testimony of  
25 Mr. Han. And ask you to take a look at the page

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McCormick

I'm showing you, which is marked 426621.

MR. BOOKER: I would like to see that too before the witness answers anything.

Q. Have you seen that page before?

A. No, I have not.

Q. On that page, the top of the page, it says 2/7, I believe it says "staff meeting."

Do you know if you attended a staff meeting on February 7, 1994 with Mr. Han and others?

A. I don't recall.

Q. Do you know if you were in the office on February 7th?

A. I don't know.

Q. Do you recall attending any staff meeting at which Day One was discussed?

A. I don't recall.

MR. BOOKER: At what time?

MS. ESPOSITO: During the period February to March 1994.

A. I don't recall the specifics of any meeting, but I would imagine that during that time period it was discussed. I don't recall particular dates and I don't recall this particular staff

MANHATTAN REPORTING CORP.

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McCormick

meeting.

Q. Do you recall whether you were involved in any staff meetings prior to the time of the ABC Day One broadcast at which Day One was discussed?

A. I don't recall.

Q. Mr. Han's notes from that staff meeting indicate that you would be coordinating, and it's next to the name Gregg Cummings.

Do you know who Mr. Cummings is?

A. I believe he was based down in our North Carolina plant.

Q. Did you have any involvement with Mr. Cummings around this time?

A. He was going around meeting with people throughout the company. And on his visit to our department I met with him.

Q. Was that related in any way to Day One?

A. No, it was not.

Q. I will take that back from you.

Do you recognize the name Victor Denoble?

A. I do.

Q. Do you know who Mr. Denoble is?

A. Just from news clippings, he apparently

MANHATTAN REPORTING CORP.

2058459860

1 McCormick

2 worked at Philip Morris.

3 Q. Do you recall any staff meetings at  
4 which Victor Denoble was discussing the context of  
5 Day One?

6 A. No, I do not.

7 Q. Do you know who Richard Carchman is?

8 A. I do.

9 Q. How do you know Mr. Carchman?

10 A. He works in our Richmond office. I met  
11 him once or twice.

12 Q. Do you remember when you first met  
13 Mr. Carchman?

14 A. I met him, I believe it was March 1st,  
15 the night of March 1st.

16 Q. 1994?

17 A. Yes.

18 Q. In what context did you meet  
19 Mr. Carchman?

20 A. He was present at the television  
21 studio, Steve Parrish was giving a satellite media  
22 tour responding to the allegations made in the Day  
23 One broadcast. And Mr. Carchman was present in the  
24 room I was sitting in.

25 Q. Do you know what Mr. Carchman's role

MANHATTAN REPORTING CORP.

2058459861



1 McCormick  
2 was in the satellite media tour?

3 A. I do not.

4 Q. I hand you again a document that's  
5 included in what we've marked as McCormick Exhibit  
6 No. 2, it's a media affairs call report dated  
7 February 4th to February 11, 1994. The Bates  
8 numbers are PA 427067 to 69.

9 Are you familiar with that report?

10 A. I've seen it before, I would imagine.

11 Q. Did you participate in drafting the  
12 report?

13 A. I don't remember.

14 Q. Can you tell by looking at that report  
15 what date it was prepared?

16 A. Most likely on February 11th.

17 Q. At the top of the report there is a  
18 section called "highlights." And one of the  
19 highlights indicates that "Day One would be doing a  
20 story on cigarette ingredients and nicotine  
21 addiction and has asked for Philip Morris'  
22 corporate prospective." The entry then states "we  
23 will decline."

24 Did you play any role in making that  
25 decision to decline?

MANHATTAN REPORTING CORP.

2058459862

McCormick

A. No, I did not.

Q. Did you draft that entry?

A. I don't recall, but probably not.

Q. If you could take a look back at Exhibit No. 1, I would like you to look at the first page of that exhibit, which is Bates stamped 426904. There is a February 14, 1994 E-mail from Karen Daragan to Mr. Han and others in your office.

Are you familiar with that E-mail?

A. No, I'm not.

Q. The first time you saw this E-mail is when you collected it around March 18th?

A. Around March 18th.

Q. This is the day on which you believe you had this conversation with Mr. Bogdanich. Is this the call you were referring to when Ms. Daragan was going to call Mr. Bogdanich back?

A. I would imagine it would be.

Q. Do you know if Ms. Daragan had any other call with Mr. Bogdanich on that day?

A. I do not.

Q. Have you had any discussions with Ms. Daragan about this conversation with

MANHATTAN REPORTING CORP.

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McCormick

Mr. Bogdanich?

A. No, I have not.

Q. Have you had discussions with anyone about this conversation?

A. No.

Q. Do you know any more about this conversation than what's contained in the E-mail?

A. No, I do not.

Q. On pages 7 to 8 of Exhibit No. 1, they are Bates stamped 426910 to 11, there is a February 24, 1994 E-mail from Karen Daragan to others in your office, again you are not copied.

Are you familiar with that E-mail?

A. No, I am not.

Q. Had you seen this E-mail prior to March 18th?

A. No, I had not.

Q. Ms. Daragan indicates in this E-mail she had had a discussion with Mr. Bogdanich the day before. Had you had any discussions with Ms. Daragan about her February 23rd conversation with Mr. Bogdanich?

A. No, I have not.

Q. Have you had discussions with others in

MANHATTAN REPORTING CORP.

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McCormick

your office about that conversation?

A. No, I have not.

Q. In the E-mail Ms. Daragan sets out three inquiries that Mr. Bogdanich presented to her at the bottom of the E-mail, inquiry No. 1 relates to denatured alcohol. No. 2 relates to a man named William Dunne. And No. 3 relates to reconstituted tobacco and tobacco extracts.

Were you aware at any time during February 1994 that Mr. Bogdanich had presented these lines of inquiry to Ms. Daragan?

A. No, I was not.

Q. Have you learned that since this time before today?

A. I saw this on March 18th, 1994 for the first time.

MS. ESPOSITO: Mark that as McCormick No. 3.

EXB (McCormick Exhibit 3 for identification, memo from Victor Han to distribution list, dated February 25, 1994, with attachment, production numbers PA 420358 to PA 420359.)

Q. The court reporter has marked as

McCormick

McCormick No. 3, a two-page document Bates stamped PA 420358 to 359. It's a February 25, 1994 memo from Victor Han to distribution list, attaching a statement of Philip Morris U.S.A.

Do you recognize the document?

A. I was not copied on this document.

Q. Do you recognize the statement attached to the cover memo?

A. Yes, I do.

Q. Did you participate in drafting that statement?

A. No, I did not.

Q. Have you seen any drafts of that statement or earlier versions of that statement?

A. No, I have not.

Q. Have you ever seen any statement that was intended to respond to Mr. Bogdanich's February 23rd questions, other than this statement?

A. No, I have not.

Q. Do you know who drafted that statement?

A. No, I do not.

MS. ESPOSITO: Please mark that as McCormick 4.

EXB

(McCormick Exhibit 4 for

1 McCormick  
2 identification, memo from Victor Han to  
3 distribution list, dated February 28, 1994, with  
4 attachment, production numbers PA 420356 to PA  
5 420357.)

6 Q. The court reporter has marked as  
7 McCormick Exhibit No. 4, a two-page document, Bates  
8 stamped PA 420356 to 357. It's a February 28, 1994  
9 memo from Victor Han to distribution list,  
10 attaching a February 28th statement.

11 Have you seen that document before?

12 A. Again, I was not copied on the  
13 distribution list.

14 Q. Do you recognize the statement?

15 A. I do.

16 Q. Did you participate in drafting that  
17 statement?

18 A. No, I did not.

19 Q. Do you know who drafted that?

20 A. No, I do not.

21 Q. When did you first see the statement  
22 that was dated February 28th?

23 A. I don't recall exactly, but probably  
24 February 28th.

25 Q. In what context, if you recall?

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2058459867

McCormick

A. I was handed the statement and asked to fax it to the Business Wire, PR News Wire, so we could release it to the public.

Q. Do you know when it was released, what time of day?

A. I don't know, other than the fact this memo says it was released between 1 and 1:30 today.

MS. ESPOSITO: Can you mark this as Exhibit 5, please.

EXB (McCormick Exhibit 5 for identification, Philip Morris statement dated March 1, 1994, production numbers PA 426583 to PA 426584.)

Q. The court reporter has marked as McCormick Exhibit No. 5, Philip Morris statement dated March 1, 1994. Bates stamped PA 426583 to 584.

Do you recognize that statement?

A. I do.

Q. Did you participate in drafting it?

A. No, I did not.

Q. Do you know who drafted it?

A. No, I do not.

Q. When did you first see this statement?

1 McCormick

2 A. When it was approved on March 1st.

3 Q. When you say when it was approved, what  
4 do you mean by "approved"?

5 A. I was given a final version of the  
6 statement. I believe this is the statement that  
7 Steve Parrish read on March 1st, we were compiling  
8 B-roll footage of him responding to the previous  
9 night's program.

10 Q. Did you see any draft versions of that  
11 statement?

12 A. No, I did not.

13 Q. Do you know if that statement was  
14 released, other than Steve Parrish's reading the  
15 statement?

16 A. I don't know. I believe it was faxed  
17 to reporters upon request. But I don't remember  
18 whether or not we released it on the news wires.

19 Q. Do you know if the files that you  
20 searched in connection with the lawsuit contain any  
21 draft versions of that statement?

22 A. My files would not, no.

23 Q. Do you maintain final copies of the  
24 statements in your own files?

25 A. Yes.

MANHATTAN REPORTING CORP.

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McCormick

Q. I would like to hand to you but not mark another document that's contained in Exhibit No. 2. It's another media affairs call report, dated February 25, 1994 to March 4, 1994. The Bates numbers go out of order, they are 426971 to 972, and also 994 being the last page of the report.

Do you recognize that report?

A. It looks like our call report from that week.

Q. Do you know if you participated in drafting the report?

A. I don't recall.

Q. There is a discussion in the highlights section of the report of ABC's Day One.

Do you know if you drafted that entry?

A. I don't believe so.

Q. The highlights indicate "a statement responding to the Day One report was drafted on March 1st."

Do you know if that refers to the statement that we just marked as McCormick Exhibit No. 5?

A. I don't know.

MANHATTAN REPORTING CORP.

2058459870

McCormick

Q. Are you aware of any other March 1st statement that was released relating to Day One?

A. No.

Q. I'm going to hand you another document that's part of that larger exhibit, the Bates numbers are PA 426964. And it's a media affairs activity report, although it doesn't have a date on it.

Do you recognize it?

A. It looks like the format we would use.

Q. Can you tell the date of the report in any way?

A. No.

Q. Do you know if you drafted that entry?

A. No, I do not.

Q. The report indicates that a release was drafted in response to the Day One programs.

Do you know what that refers to?

A. No, I do not.

Q. This is Bates stamped PA 426968 through 970. It's a media affairs activity report that's also part of Exhibit 2.

Do you recognize that report?

A. Again, it looks like the format of our

MANHATTAN REPORTING CORP.

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McCormick

report.

Q. Do you know if you drafted any part of that?

A. I may have, I don't recall specifically.

Q. That report is also undated. Can you tell the date of that report?

A. It was probably done the week following the initial Day One broadcast. Perhaps the Friday. We would usually do our reports on Friday, not always, depending on what else was going on. But because this refers to everything in that previous week, I assume that's when it was done.

Q. The second bullet point in that report says "drafted response to Day One program which accused tobacco companies of manipulating nicotine levels of cigarettes."

Do you know if you drafted that entry?

A. I do not.

Q. Do you know if Ms. Carraro drafted that entry?

A. I do not.

Q. Have you ever prepared any memos that summarize the Day One reports?

MANHATTAN REPORTING CORP.

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McCormick

A. I don't believe so. I may have.

Q. Have you ever prepared any memos relating to the Day One report in any way?

A. What type of memos?

Q. Any kind of memo.

A. I don't recall specifically.

Q. Do you recall generally creating memoranda that relate to Day One?

A. Other than compiling the media calls, not particularly, no.

Q. In connection with compiling the media calls and preparing the media affairs call reports, do you take any notes or prepare any memoranda that aren't part of the final version?

A. I'm sorry, could you repeat that?

Q. Sure. In putting together the media affairs call reports, the media affairs reports, do you create any memoranda or create any notes that actually don't end up in the notebook?

A. No. As you can tell from looking at these, all of our notes in the calls are attached to the call report. And that represents the record of the calls that have come in. I may have added -- after the show was broadcast, I did compile

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2058459873

McCormick

media coverage of the show and some of the surrounding events, but that was the only thing I probably did in connection with that.

Q. Do you recall discussing the Day One broadcast with any of your colleagues after they were aired?

A. No, I do not.

Q. Do you know if you did have a discussion about the Day One broadcast?

A. I assume we did have conversations, I just do not recall the particulars of those conversations.

Q. Do you recall any specific conversations?

A. No, I do not.

MS. ESPOSITO: Mark that as McCormick 6, please.

EXB (McCormick Exhibit 6 for identification, document entitled "Philip Morris Response to Allegations that the Company Adds Nicotine to its Products," production numbers 421013 to 421020.)

Q. The court reporter has marked as McCormick 6, a document entitled "Philip Morris

McCormick

Response to Allegations that the Company Adds  
Nicotine to its Products." And underneath that it  
says "communications media follow-up report," Bates  
stamp 421013, to 421020.

Do you recognize this report?

A. I believe I have seen this before, yes.

Q. Did you draft that report?

A. No, I did not.

Q. Did you draft any part of that  
document?

A. No, I did not.

Q. This is not the document that you were  
describing earlier when you said you put together a  
summary of the coverage?

A. No, other than to hand copies of  
statements. I believe Tara put this together.

Q. What document were you describing when  
you said you compiled media coverage of the show  
and surrounding events, were you referring to a  
particular document?

A. I just pulled together news clips of  
how the major newspapers throughout the country  
were reporting what was going on. And just  
compiled the clips and sent it out to a

MANHATTAN REPORTING CORP.

2058459875

1 McCormick

2 distribution list.

3 Q. Did you compile clips from hard copies  
4 or is it an on-line service that you are referring  
5 to?

6 A. It's a combination of both.

7 Q. Was the distribution list limited to  
8 your department?

9 A. I don't believe so. I believe it went  
10 to other people.

11 Q. Do you recall who else it went to?

12 A. I do not.

13 Q. Do you know why the document marked as  
14 Exhibit No. 6 was compiled, for what purpose?

15 A. Just to summarize the activities of the  
16 previous week. It's probably no different than a  
17 usual weekly report on what our activities were.

18 Q. Do you know when this was compiled?

19 A. No, I do not.

20 MS. ESPOSITO: Please mark that as  
21 Exhibit 7.

22 EXB (McCormick Exhibit 7 for  
23 identification, document entitled "Philip Morris  
24 U.S.A. Statement in Response to Day One Charges,"  
25 production numbers 426558 to 426559.)

1 McCormick

2 Q. McCormick Exhibit No. 7 is a two-page  
3 document called "Philip Morris U.S.A. Statement in  
4 Response to Day One Charges," Bates stamp 426558 to  
5 559.

6 Do you recognize that statement?

7 A. No, I do not.

8 Q. You've never seen that statement  
9 before?

10 A. I may have seen it. I do not recognize  
11 it.

12 Q. So you didn't participate in drafting  
13 it?

14 A. No, I did not.

15 Q. Do you know who drafted it?

16 A. No, I do not.

17 Q. Do you know if that statement was ever  
18 released to the media?

19 A. I do not.

20 EXB (McCormick Exhibit 8 for  
21 identification, March 3, 1994 letter with cover  
22 memo, production numbers PA 100387 to PA 100390.)

23 Q. McCormick Exhibit No. 8 is a March 3,  
24 1994 letter, with a cover memo, Bates stamped PA  
25 100387 to 390.



1 McCormick

2 Have you seen that before?

3 A. It was sent out to all New York office  
4 employees on March 3rd. So yes, I would have seen  
5 this before.

6 Q. Did you see it before you received it  
7 as part of the mass distribution?

8 A. No.

9 Q. You didn't participate in drafting the  
10 cover memo in any way?

11 A. No, I did not.

12 Q. Are you familiar with the letter  
13 attached to the memo, other than having received it  
14 on that day?

15 A. No, I am not.

16 Q. You didn't participate in drafting the  
17 attached letter?

18 A. No, I did not.

19 Q. If you could take a look at Exhibit No.  
20 1 again. There is an E-mail on pages 8 to 9, dated  
21 March 3, 1994. It's from Mr. Han to others in your  
22 office, and you were copied on this E-mail.

23 Do you recognize the E-mail?

24 A. I was copied on it, so I have seen it  
25 before, yes.

MANHATTAN REPORTING CORP.

2058459878

McCormick

Q. Mr. Han refers in the E-mail to a meeting with Chuck, Tony A., Carchman and Buffy.

Do you know what meeting that is referring to?

A. I do not.

Q. Do you know if you attended that meeting?

A. I did not.

Q. You did not attend the meeting?

A. I did not attend the meeting.

Q. Did you have any discussions with anyone about that meeting?

A. No, I did not.

Q. Mr. Han refers in this E-mail to, and I'm quoting from the third paragraph of the E-mail, "the 8:30 a.m. meeting on Tuesday with the same cast of characters as last time."

Do you know who Mr. Han is referring to?

A. No, I was not present at that meeting.

Q. Which meeting are you referring to?

A. I was not present at the Tuesday 8:30 meeting. Or the previous meeting.

Q. Do you know who was present at the

McCormick

previous meeting?

A. No, I do not.

Q. Do you know the date of the previous meeting?

A. I do not.

Q. Do you know if it was before the February 28th broadcast?

A. I do not.

Q. Mr. Han refers in this E-mail to a statement signed by scientists in the second to last paragraph of the E-mail. It says "the only other thing is we have five scientists who have reviewed all data and signed a strong statement."

Do you know what statement that's referring to?

A. As best I can tell it was referring to a statement that was released with our ingredients list.

Q. So you think the statement was released?

A. Yes.

Q. Do you know the date of that release?

A. Not exactly. I believe it was April 13th of 1994.

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2058459880

McCormick

Q. Do you know who the scientists are?

A. I do not.

Q. Have you ever seen this statement?

A. On April 13th it was released, so I have seen a copy of the statement, yes.

Q. You hadn't seen it before April 13th?

A. No, I did not.

EXB (McCormick Exhibit 9 for identification, memo from Mr. Han to distribution list, dated March 4, 1994.)

Q. McCormick No. 9 is a one-page memo dated March 4, 1994 from Mr. Han to distribution list. You are not copied on this memo.

Have you seen the memo before?

A. No, I have not.

Q. The memo refers to a March 8th meeting, I assume the same March 8th meeting that we were just discussing. Were you at any meeting on the morning of March 8th?

MR. BOOKER: Object to any assumption in the question as to whether it was the same meeting. But answer the question, if you can.

A. I was not attending at that 7:30 meeting, no.

MANHATTAN REPORTING CORP.

2058459881

McCormick

Q. Did you attend any meeting on March 8th relating to Day One that you recall?

A. Not that I recall, no.

EXB (McCormick Exhibit 10 for identification, memo from William Campbell to New York office in Ryebrook employees, dated March 8, 1994.)

Q. McCormick No. 10 is a March 8, 1994 memo from William Campbell to New York office in Ryebrook employees.

Have you seen the memo before?

A. I have seen the memo before, yes.

Q. When did you first see the memo?

A. Probably March 8th when it was sent out to all employees.

Q. Do you recall seeing, and there are some attachments, but I'm referring now to the cover memo, do you recall seeing the cover memo before it was distributed to all employees?

A. No.

Q. So you didn't play any role in drafting the cover memo?

A. No.

Q. The first attachment to the cover memo

McCormick

is a March 7th statement, two-page statement, the  
Bates numbers are 426575 to 76.

Have you seen this statement before?

A. I have.

Q. Did you participate in drafting that  
statement?

A. No, I did not.

Q. Did you see any drafts of the  
statement?

A. No, I did not.

Q. Did you see the statement before it was  
released on March 7th?

A. I was the one that handled releasing it  
to the news wires.

Q. Did you first see it on March 7th, is  
that the first time you saw it?

A. Yes, it was the night of March 7th.  
After the Day One program when we released it.

Q. Do you know what time it was released?

A. It would have been after the Day One  
program on March 7th. I don't have an exact time.

EXB (McCormick Exhibit 11 for  
identification, cover memo from William Campbell to  
all Philip Morris U.S.A. employees, dated March 8,

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McCormick

1994.)

Q. McCormick No. 11 is a March 8, 1994 cover memo from William Campbell to all Philip Morris U.S.A. employees. The memo has attachments, but the memo that we've marked is only one page with no attachments.

Do you recognize the cover memo?

A. I received the cover memo on March 8th.

Q. Did you see it before March 8th?

A. No.

Q. Did you participate in drafting the cover memo?

A. No, I did not.

Q. That's all I have for that one.

If you can return to Exhibit 1, please, page 8 of that document. It's a March 7, 1994 E-mail from Shirley Arnott to you, copied to Kathleen Linehan, Ellen Merlo and Steve Parrish.

Do you recall receiving that E-mail?

A. I do.

Q. The subject line says "Day One draft statement," and the heading indicates that there is an attached file called "media statement for Vic."

Do you know what that statement was?

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1 McCormick

2 A. As far as I can tell it was a draft  
3 statement on Day One. I did not read the  
4 statement.

5 Q. You did not read the statement?

6 A. No, I printed the statement up. Chuck  
7 Wall was not on E-mail, so he needed to have  
8 everything delivered to him hard copy. Vic was  
9 down in Richmond, sent this up through someone in  
10 Richmond to me, I printed it and walked it up to  
11 Chuck.

12 Q. Do you know if Mr. Han drafted that  
13 statement?

14 A. I do not, no.

15 Q. Do you know if this was a final copy or  
16 a draft statement?

17 A. I do not.

18 Q. Do you still have this E-mail on your  
19 electronic mail system?

20 A. I probably do.

21 Q. Do you know if the attached file would  
22 still be on your system?

23 A. I don't know.

24 Q. Did you print out that file when you  
25 printed out these E-mails?



McCormick

A. No, I would have just printed up the media calls.

Q. When you printed out an E-mail, the attached files I assume automatically would not print out, or would not print out by themselves, you would have to do something in addition?

A. Correct.

Q. I'm going to hand you a three-page media affairs call report that is part of Exhibit 2. It's dated 3/4/94 to 3/11/94. And the Bates numbers are PA 426965 through 967. And I ask you to take a look at that.

Did you prepare that report?

A. I don't recall.

Q. The highlights section contains an entry relating to Day One.

Do you recall whether you participated in drafting that entry?

A. I do not recall, no.

Q. The third sentence of the entry says, "once again PM immediately issued a statement to the wire services immediately following the broadcast and to other media outlets the following day that denied the allegations and included a

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McCormick

letter from Covington & Burling," and it goes on.

Does that refer to the March 7th statement that we just discussed, if you know?

A. I believe it is. The March 7th statement was also followed by our February 28th statement and the Covington & Burling letter. I believe it was a compilation of everything we had released to the media prior to that point. And everything we had released to Day One to that point.

Q. So it was the March 7th statement, the Covington & Burling letter?

A. I believe it was the February 28th statement, the March 1st statement, and the Covington & Burling letter.

Q. Do you recall any other attachments to the March 7th statement?

A. No, I believe that was it. I do recall it being lengthy and a compilation of several documents. But that was all released on the news wire, so that stuff is out there.

EXB (McCormick Exhibit 12 for identification, document entitled "Chronology of Materials Provided to ABC's Day One," production

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McCormick

numbers PA 100377 through PA 100386.)

Q. The court reporter has marked as McCormick Exhibit No. 12, a document entitled "Chronology of Materials Provided to ABC's Day One." The Bates numbers are PA 100377 through 386.

Do you recognize these materials as compiled here?

A. This is the second half of the statement that was released on the evening of March 7th.

Q. Do you know who put together the compilation of documents?

A. I don't know. It's basically a compilation of everything that was released prior to the broadcast on March 7th.

Q. Do you know why the February 25th statement that was faxed to Day One is not included as part of this chronology of materials provided to ABCs Day One?

A. I do not.

Q. Have you ever seen any compilation of materials that was released to the press that included that February 25th statement?

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McCormick

A. No, I don't believe I have.

Q. I'm going to hand to you a media affairs call report, dated 3/11/94 to 3/18/94. It's also part of Exhibit No. 2. The Bates numbers are PA 4268 through 952.

And ask you if you recognize that report.

A. This looks like our call report for that week.

Q. Do you know if you participated in drafting the report?

A. I don't recall.

Q. At the bottom of the first page of the report, there is an entry for March 14th for ABC TV Day One. The request is "comment on S. Parrish appearance on Nightline, reaction to Congressman Waxman's call for a civil inquiry into the issue of manufacturing additives and verification of authenticity of WIC letter to Congress." The "action taken" column just says "verify authenticity of WIC letter and," and there is nothing below that.

Have you ever seen a version of this report that had that entry completed?

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McCormick

A. Not to my knowledge, no.

Q. Do you know what action was taken with regard to the other aspects of the request?

A. Not from looking at this, no.

Q. Do you have any independent knowledge of what other action was taken?

A. I think a letter may have been sent to Day One, but I can't tell if this was the date that it was sent out.

Q. Did you participate in drafting the letter?

A. No, I did not.

EXB (McCormick Exhibit 13 for identification; letter from Mr. Parrish to Mr. Bogdanich, dated March 14, 1994, with cover note.)

Q. Exhibit 13 is a March 14, 1994 letter from Mr. Parrish to Mr. Bogdanich with a cover note on it.

Is this the letter you are referring to?

A. Yes.

Q. When did you first see that letter?

A. I don't recall exactly.

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McCormick

Q. Do you recall seeing it in draft version or only the final form?

A. I only saw the final form.

Q. Do you know who drafted the letter?

A. I do not.

EXB (McCormick Exhibit 14 for identification, draft headed "Philip Morris Attacks ABC for Tabloid Journalism, Releases Ingredient List.")

Q. McCormick 14 a two-page document headed "Draft," it's called "Philip Morris Attacks ABC for Tabloid Journalism, Releases Ingredient List."

Do you recognize that document?

A. No, I do not.

Q. Did you participate in drafting this document in any way?

A. No, I did not.

Q. Do you know who drafted it?

A. No, I do not.

Q. Are you familiar with a document called a corporate affairs issues handbook?

A. Yes.

Q. Can you tell me what that is?

A. That's just an overview of the

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McCormick

company's positions on various issues.

Q. Do you have your own copy of that?

A. I don't think one has been done recently. There is an older version of it.

Q. Do you know what the most recent version is?

A. No, I do not.

Q. Do you have a copy of the version that you are speaking of?

A. I don't know. I may have one at home.

MS. ESPOSITO: Can you mark that as

15.

EXB

(McCormick Exhibit 15 for

identification, document entitled "Corporate Affairs Issues Handbook," production numbers PA 839226 to PA 839463.)

Q. The court reporter has marked as McCormick No. 15, document entitled "Corporate Affairs Issues Handbook," the Bates numbers are PA 839226 to 463.

Do you recognize that version of the handbook?

A. I believe this is the version I was referring to, yes.

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McCormick

Q. Do you know if that's the most recent version?

A. As far as I know, yes.

Q. Does everyone in the corporate affairs department receive their own copy of the corporate affairs issues handbook?

A. I don't know.

Q. Did you receive one when you started work in that department?

A. I received a copy at the time, yes. Not when I started work, I believe this was published while I was a summer intern.

Q. And you received a copy when it was published?

A. Yes.

Q. Do you know, is it a looseleaf service that's updated periodically or it was a bound volume?

A. No, it was a bound volume.

Q. Do you know who drafted it?

A. I do not.

Q. Do you know if anyone in your department participated in drafting it?

A. I would imagine, judging on the wide

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1 McCormick

2 variety of issues, it had input from a lot of  
3 different people.

4 Q. Do you know what purpose the book  
5 serves, what you use it for?

6 A. It has the company's position on a wide  
7 variety of issues. And I believe it's just for  
8 reference purposes only.

9 Q. Do you know if it's intended to be used  
10 as a resource to provide information to media  
11 outlets in response to requests, or is it purely  
12 just a reference volume?

13 A. I don't know. I would imagine some of  
14 the information here could be used. But again,  
15 this is an older version. It's not really a  
16 current version of the issues handbook.

17 Q. Have you ever used it for that purpose?

18 A. No, I have not.

19 Q. For responding to media requests?

20 A. No. I do not have a copy of this in my  
21 office. And I have not seen a copy around the  
22 office in some time.

23 MS. ESPOSITO: Let's go off the record

24 THE VIDEO OPERATOR: It is 11:09, and  
25 we are off the record.

1 McCormick

2 (A recess was taken.)

3 THE VIDEO OPERATOR: It is 11:40, and  
4 we are back on the record.

5 BY MS. ESPOSITO:

6 Q. Mr. McCormick, I have a couple of  
7 questions about documents that I am not going to  
8 mark, they were marked at the deposition of Karen  
9 Daragan. And I just want to know in the first  
10 instance if you are familiar with the documents.  
11 And if you are, then I might mark them. But for  
12 now if you can just look at this. It was marked as  
13 Daragan Exhibit No. 7.

14 A. Are we just looking at the first page  
15 here?

16 Q. If you can look at the entire document  
17 that was marked. It's a fax sheet, the Bates stamp  
18 range is PA 100332, there is another fax sheet,  
19 333, then there are four pages -- I'm sorry, five  
20 pages attached to the fax sheet. I just want to  
21 know if you are familiar with the document.

22 A. I have never seen this document before.

23 Q. If you could turn to the next tab, the  
24 exhibit that was marked as Daragan Exhibit No. 8, a  
25 February 25, 1994 letter to Scott Ballin from

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1 McCormick

2 Commissioner Kessler.

3 Have you seen that letter before?

4 A. Yes, I have.

5 Q. When did you first see that letter?

6 A. I don't recall.

7 Q. Do you ever recall seeing a draft  
8 version of that letter?

9 A. No, I believe I've only seen a final  
10 copy of it.

11 Q. Have you ever seen an unsigned version  
12 of the letter?

13 A. No, I have not.

14 Q. Do you know if Philip Morris responded  
15 to that letter in any way?

16 A. I don't believe we did. I don't  
17 believe it was addressed to us.

18 Q. I will take that back from you.

19 I'm going to show you an exhibit that  
20 was marked as Han Exhibit No. 9, and its Bates  
21 range is PA 426676, 426593 to 426606.

22 And I just want to ask you if you've  
23 ever seen that compilation of documents or any of  
24 the parts before.

25 A. What page am I going through, through

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McCormick

to the end?

Q. Through to the end of the exhibit,  
which is the end of the tab.

A. No, I have never seen this before.

MR. BOOKER: If you haven't seen it, I  
don't want to see it.

MS. ESPOSITO: Can you mark that as  
McCormick 16.

EXB (McCormick Exhibit 16 for  
identification, memorandum from William Campbell to  
PM U.S.A. and New York office Ryebrook employees,  
dated April 14, 1994, production numbers PA 100053  
to PA 100054.)

Q. McCormick 16 is a two-page document, PA  
100053 to 54. It's an April 14, 1994 memorandum  
from William Campbell to PM U.S.A. and New York  
office in Ryebrook employees.

Have you seen that memo before?

A. I have.

Q. When did you first see the memo?

A. On the 14th.

Q. Did you see any draft forms of this  
memo?

A. No, I did not.

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McCormick

Q. Did you participate in drafting it in any way?

A. No, I did not. I was told that my name would be included as a contact for Philip Morris New York office and sales force personnel. I don't recall if I was told that on the 13th or the 14th.

Q. Do you recall who told you that?

A. No, I do not.

Q. Did you have any discussions with any of your colleagues about the subject matter of the memo?

A. No, I did not. Other than the fact that we were releasing the ingredients list and Congressional testimony of employees may be *calling for copies* called. And I was just listed as a contact because our office was serving as more of a fulfillment role for anyone else who was interested in receiving this.

Q. Were you named as contact only to provide copies of the document if someone requested it or were you asked to provide information to those who requested it?

A. I was just providing copies of the document. It was three documents that people were

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McCormick

requesting, as I read this. It was the cigarettes ingredients list, the independent safety assessment or transcript of Campbell's testimony.

Q. Were there any other documents that were provided in connection with this letter that you are the contact for?

A. No.

Q. I'm going to hand you a media affairs call report that's part of Exhibit 2. The Bates numbers are PA 426913 to 426917. The report is dated the week of 3/21/94 to 3/<sup>25</sup>~~24~~/94.

I ask you if you recognize that.

A. Again, it looks like our call report.

Q. Do you know if you participated in drafting this particular report?

A. I know for a fact that I did not, because I was out of the office that week.

Q. You were out of the office the whole week of the 21st through the 24th?

A. Yes.

Q. Were you involved in any way in the press conference announcing this lawsuit?

A. No, I was not. I was out of the office on a totally unrelated business.

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McCormick

Q. Did you see what we call the motion for judgment or complaint in this case before it was filed?

A. I didn't see any of the lawsuit materials until I got back to the office. I would imagine that would be on the 27th or the 28th. The 28th, the following Monday.

Q. When did you first learn that Philip Morris was considering suing ABC?

A. After it was filed.

Q. You had no discussions with anyone in your office before the lawsuit was filed about the lawsuit?

A. No, I did not.

Q. Did you have discussions with colleagues in your office about the lawsuit after it was filed?

A. I would assume I did. I don't remember the particular nature of those conversations.

Q. Do you recall any of those conversations?

A. Not in detail, no.

Q. Do you recall any discussions with Mr. Han about the lawsuit?

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McCormick

A. No, I do not.

Q. Do you recall having any discussions with Ms. Carraro about the lawsuit?

A. No, I do not. I probably discussed it just as a matter of something that was in the news that week. And probably asked how the press conference went. But we beyond that, I don't remember the details of any conversations.

Q. Do you remember any conversations with Ms. Daragan?

A. I don't remember the details of any conversations, no.

Q. Do you remember the general substance of the conversations?

A. No, I do not.

Q. Do you remember having a particular conversation with Ms. Daragan?

A. No, I do not. I think I do believe asking them -- I think I spoke with her via phone the day it was filed, that afternoon, just saying hey, what's going on. Being out of the office we were aware that something was going on but didn't know the particulars. So I spoke and she was the one who informed me that we had filed suit against

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McCormick

ABC.

Q. Were you aware that day before the suit was filed that it was being filed that day?

A. No, I did not know until after the suit was filed and the press conference was held.

Q. Do you recall any discussions with Ms. Daragan about Day One's inquiries before the broadcasts?

A. No, I do not.

Q. Do you recall any discussions with Ms. Carraro about Day One's inquiries before the broadcasts?

A. No, I do not. I believe the only conversation we had was are you handling this call or am I handling this call. And since she handled the call, we didn't have further conversations with that.

Q. Are you referring to the initial call on February 4th?

A. Probably the initial call, yes.

Q. Are you aware of any other calls that Ms. Carraro had with Day One?

A. No, I am not.

Q. Did you have any discussions with

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2058459902

McCormick

Mr. Han about Day One's inquiries prior to the broadcast?

A. No, I did not.

Q. You mentioned that your father worked for Philip Morris. Is he in your department?

A. No, he is not. He is no longer with the company. He is retired.

Q. Was he retired when you started working for the company?

A. He retired in 1991, I believe, or 1992.

Q. What position did he retire from?

A. He was in the fleet management department, dealing with the cars for the sales force.

Q. Have you had discussions with your father prior to the Day One broadcasts about Day One's inquiries?

A. No.

Q. Had you had any discussions with him about Day One?

A. No.

Q. After the Day One broadcast, do you recall discussing the broadcast in any way with Mr. Han?

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McCormick

1  
2 A. I don't recall the particulars. I'm  
3 assuming we were discussing it in terms of how to  
4 respond. From my point of view that was really  
5 just saying, him informing me that there will be a  
6 statement ready and handing me the statement when  
7 it was ready. But we did not discuss particular  
8 details of any of the broadcasts or anything along  
9 those lines.

10 Q. Do you remember the substance of any of  
11 your conversations with Mr. Han other than that  
12 there would be a statement prepared?

13 A. I don't believe there were any other  
14 conversations beyond that.

15 Q. Do you recall conversations with  
16 Ms. Daragan about the broadcasts after they aired?

17 A. I don't recall, no.

18 Q. You don't recall having any?

19 A. I would imagine that we did have  
20 conversations, just because it was something that  
21 was in the news. But I don't recall the nature of  
22 the conversation or any of the details.

23 Q. Do you recall having a particular  
24 conversation with her?

25 A. No, I do not.

2058459904

1 McCormick

2 Q. What about Ms. Carraro, do you recall  
3 having conversations with her about the broadcasts  
4 after they aired?

5 A. I believe we would have discussed it  
6 just as I discussed it with Vic and Karen, in  
7 general terms, but I don't recall the details or  
8 any particular conversations.

9 Q. Do you remember the general substance  
10 of any of those conversations?

11 A. No, I do not.

12 Q. You testified earlier that Mary.  
13 Coughlin is one of the managers in your  
14 department.

15 A. Um-hum.

16 Q. And I understand that's as of December  
17 1994?

18 A. Yes.

19 Q. Did she have a position with the  
20 company before December 1994?

21 A. No, she did not.

22 Q. She was a new employee at that time?

23 A. She was a new employee.

24 Q. I just want to follow up on your media  
25 training. You testified earlier, I believe, that

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1 McCormick

2 your first media training was in November of 1994.  
3 I just want to know if you are sure it was '94 or  
4 if it was when you started in 1993?

5 A. I'm not sure specifically that it was  
6 November. But it was not until I was brought on  
7 into the position of coordinator of media affairs.  
8 Which would have been 1994.

9 Q. So your first training was shortly  
10 before you were coordinator --

11 A. It would have been after September of  
12 1994.

13 Q. After September 1994.

14 After you were appointed coordinator or  
15 immediately before?

16 A. It was after.

17 Q. You testified earlier about a  
18 conversation that you had with Mr. Bogdanich on  
19 February 14th, the nature of which was to tell  
20 Mr. Bogdanich that Ms. Daragan would return his  
21 call. Do you know if that was in response to a  
22 call by Mr. Bogdanich, were you returning his call?

23 A. I don't know. Karen had asked me to  
24 return his call. I believe she was busy that  
25 afternoon and said just give him a call, as she

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McCormick

often does when she's got a list of reporters she needs to call back, I believe she asked me to return his call and to let him know I will be getting back to him this afternoon.

Q. You believe it was in response to a phone call by him?

A. I don't know. The reason I called him was because Karen asked me to call him.

Q. Did you have any discussions with her about what his requests were or what she would be telling him later in the day?

A. No, I did not.

Q. Did you have any discussions with her after her call with him about the call?

A. No, I did not. Other than to say did you call him back, and she said yes, I did.

Q. Do you recall discussions with Mr. Han about any of the statements that we've marked as exhibits here today?

A. Other than who they needed to be sent to, no, there were no conversations.

Q. No conversations with Mr. Han about the substance of the statements?

A. No.

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MANHATTAN REPORTING CORP.

McCormick

Q. Do you recall conversations with Ms. Daragan about the statements?

A. No, I do not.

Q. How about with Ms. Carraro?

A. No.

Q. Do you recall conversations with anyone else in your office about the substance of the statements?

A. No, I did not discuss the substance of the statements with anyone.

MS. ESPOSITO: Let's go off the record.

THE VIDEO OPERATOR: It is 11:55, and we are off the record.

(Discussion off the record.)

THE VIDEO OPERATOR: It is 11:56, and we are back on the record.

REQ MS. ESPOSITO: Mr. McCormick, I have no further questions for you at this time.

Mr. Booker, I just want to make one request. Mr. McCormick testified that there is a file attached to the March 7th E-mail that wasn't printed out with the group of E-mails. I would just request that you look into whether that file still exists and if so, to produce it. That's all

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McCormick

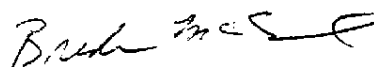
we have.

MR. BOOKER: We have no questions of the witness at this time. So far as we are concerned, the examination of this witness is concluded. We will not waive signatures.

And I have your request in mind and we will look into that and I will get back to you on it.

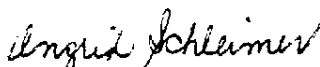
MS. ESPOSITO: Okay.

THE VIDEO OPERATOR: It is 11:56, this is the end of tape No. 1 and this concludes today's taping of the deposition of Brendan McCormick. It is 11:56, and we are off the record.



BRENDAN MCCORMICK

Subscribed and sworn to before me  
this 18<sup>th</sup> day of March, 1995.



INGRID SCHLEIMER  
Notary Public, State of New York  
No. 41-48636  
Qualified in Queens County  
Commission Expires 6/23/96

MANHATTAN REPORTING CORP.

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McCormick

C E R T I F I C A T E

STATE OF NEW YORK )

: ss.

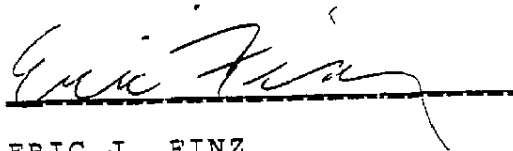
COUNTY OF NEW YORK )

I, ERIC J. FINZ, a Shorthand Reporter  
and Notary Public within and for the State of New  
York, do hereby certify:

That BRENDAN MCCORMICK, the witness  
whose deposition is hereinbefore set forth, was  
duly sworn by me and that such deposition is a true  
record of the testimony given by the witness.

I further certify that I am not related  
to any of the parties to this action by blood or  
marriage, and that I am in no way interested in the  
outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set  
my hand this 30th day of May, 1995.

  
ERIC J. FINZ

MANHATTAN REPORTING CORP.

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Keyword: EXB

- [24,6] EXB (McCormick Exhibit 1 for identification, E-mail exchanges, production numbers PA 426904 through PA 426912-A.)  
Q. The court reporter has marked as
- [32,5] EXB (McCormick Exhibit 2 for identification, copy of notebooks.)  
Q. The court reporter has marked as Exhibit 2, a compilation of documents that I
- [43,20] EXB (McCormick Exhibit 3 for identification, memo from Victor Han to distribution list, dated February 25, 1994, with attachment, production numbers PA 420358 to PA
- [44,25] EXB (McCormick Exhibit 4 for McCormick identification, memo from Victor Han to distribution list, dated February 28, 1994, with
- [46,11] EXB (McCormick Exhibit 5 for identification, Philip Morris statement dated March 1, 1994, production numbers PA 426583 to PA 426584.)
- [52,19] EXB (McCormick Exhibit 6 for identification, document entitled "Philip Morris Response to Allegations that the Company Adds Nicotine to its Products," production numbers
- [54,22] EXB (McCormick Exhibit 7 for identification, document entitled "Philip Morris U.S.A. Statement in Response to Day One Charges," production numbers 426558 to 426559.)
- [55,20] EXB (McCormick Exhibit 8 for identification, March 3, 1994 letter with cover memo, production numbers PA 100387 to PA 100390.)  
Q. McCormick Exhibit No. 8 is a March 3,
- [59,9] EXB (McCormick Exhibit 9 for identification, memo from Mr. Han to distribution list, dated March 4, 1994.)  
Q. McCormick No. 9 is a one-page memo
- [60,5] EXB (McCormick Exhibit 10 for identification, memo from William Campbell to New York office in Ryebrook employees, dated March 8,

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- 1994.)
- [61,23] **EXB** (McCormick Exhibit 11 for identification, cover memo from William Campbell to all Philip Morris U.S.A. employees, dated March 8, McCormick
- [65,23] **EXB** (McCormick Exhibit 12 for identification, document entitled "Chronology of Materials Provided to ABC's Day One," production McCormick
- [68,14] **EXB** (McCormick Exhibit 13 for identification, letter from Mr. Parrish to Mr. Bogdanich, dated March 14, 1994, with cover note.)
- [69,7] **EXB** (McCormick Exhibit 14 for identification, draft headed "Philip Morris Attacks ABC for Tabloid Journalism, Releases Ingredient List.")
- [70,14] **EXB** (McCormick Exhibit 15 for identification, document entitled "Corporate Affairs Issues Handbook," production numbers PA 839226 to PA 839463.)
- [75,10] **EXB** (McCormick Exhibit 16 for identification, memorandum from William Campbell to PM U.S.A. and New York office Ryebrook employees, dated April 14, 1994, production numbers PA 100053

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REQ MS. ESPOSITO: Mr. McCormick, I have no  
further questions for you at this time.

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